

## **Resolution ICC-ASP/24/Res.3**

*Adopted at the 9th plenary meeting, on 5 December 2025, by consensus*

### **ICC-ASP/24/Res.3**

#### **Resolution on the procedure and criteria for the waiver of the loss of voting rights**

*The Assembly of States Parties,*

*Recalling* that pursuant to article 112, paragraph 8, of the Rome Statute and regulations 5.5 and 5.6 of the Financial Regulations and Rules of the Court, a State Party which is in arrears in the payment of its assessed contributions and advances towards the costs of the Court shall have no vote in the Assembly and in the Bureau if the amount of its arrears equals or exceeds the amount of the assessed contributions and advances due from it for the preceding two full years,

*Also recalling* that pursuant to article 112, paragraph 8, the Assembly may nonetheless permit such a State Party to vote in the Assembly and in the Bureau if it is satisfied that the failure to pay is due to conditions beyond the control of the State Party,

*Further recalling* the decision of the Assembly at its fourth session on 5 December 2005, by consensus in ICC-ASP/4/Res.4, and the recommendations of the Assembly in the decision ICC-ASP/5/Res.3, adopted on 1 December 2006, urging all States Parties in arrears requesting exemption under article 112, paragraph 8, of the Rome Statute to provide the fullest possible supporting information that might support the claim that failure to make necessary payments had been attributable to conditions beyond the control of the States Parties,

*Taking note of* the decision of the Assembly in ICC-ASP/4/Res/4, that requests for exemption under article 112, paragraph 8, of the Rome Statute shall be submitted by States Parties in arrears to the Secretariat of the Assembly at least one month before the session of the Committee on Budget and Finance,

*Taking note* that the decision of the Assembly in ICC-ASP/4/Res/4 has not been implemented as originally intended, and that while the resolution was applied for two consecutive years, its implementation did not continue thereafter, and that decisions about the granting of waivers have continually been taken by the Assembly on the recommendation of the Bureau of the Assembly in accordance with the authority granted to the Assembly under article 112, paragraph 8 and that the Bureau has consistently recommended that waivers be granted as a matter of practice,

*Taking note of* the readiness expressed by the Committee on Budget and Finance in the report of its forty-eighth session to provide support to the Assembly and the Bureau, if deemed necessary, upon request and in response to specific technical questions,

*Welcoming* the discussions held within The Hague Working Group to implement the procedure set out in ICC-ASP/4/Res/4 and *recalling* that the Bureau shall determine whether a request for waiver is accompanied by sufficient supporting information,

*Taking note of* the discussions held in The Hague Working Group that relevant factors for consideration in reviewing the requests for waiver by the Bureau include: the duration in which a State Party has been in arrears and the record of its last contribution; whether the State Party has agreed on an eventual valid payment plan with the Court; the history of non-payment of assessed contributions by the concerned State Party; whether previous waiver applications have been submitted by the State Party and the reasons of such previous requests with supporting documentation; whether the State Party is also in arrears at other international organisations such as the United Nations; the importance of ensuring broad geographical representation in the decision making within the Bureau and the Assembly; the interest in promoting universality within the Court; and enhancing the resilience of the Court, also through endowing it with sufficient financial resources,

*Noting* that, in conducting its review, the Bureau may, if deemed necessary, and to complement the legal and political considerations, seek technical advice from the Committee on Budget and Finance to review financial and budgetary information provided by States Parties on waiver requests. This request shall be submitted to the Committee on Budget and Finance by the Bureau, through specific questions and inquiries to be answered by the Committee on Budget and Finance, no later than one month prior to the September session of the Committee on Budget and Finance,

*Noting* that decisions on waiver requests are decisions of the Assembly upon recommendation of the Bureau,

1. *Requests* the Secretariat of the Assembly to provide all necessary support to the Bureau in conducting its review of waiver requests, and to facilitate any technical advice requested from the Bureau to the Committee on Budget and Finance;
2. *Decides* that requests for waivers for the regular Assembly session shall be submitted to the Secretariat of the Assembly by 1 July of the year in which the State in arrears wishes to request the waiver. The Bureau may grant additional time upon request of the State in arrears, observing the individual circumstances of each request;
3. *Requests* the Bureau, States Parties and the Court to engage in dialogue with States in arrears, emphasizing the importance of endowing the Court with sufficient financial resources and in particular, financial contributions from every State Party, and encourages States in arrears to take prompt and timely action;
4. *Requests* the Bureau, through The Hague Working Group, to ensure, by no later than the first semester of 2026, the implementation of the procedure for assessing a request for waiver, in accordance with the illustrative Annex attached to this resolution;
5. *Calls upon* the Secretariat of the Assembly to set up a focal point to assist the States Parties in arrears, to provide timely notifications to States in arrears twice a year; once in the first quarter and again in the second quarter, including different options to recover voting rights, and *further calls upon* the Secretariat to inform all States Parties periodically of States in arrears and those that have recovered their voting rights following payment of their arrears;
6. *Also calls upon* the Bureau to submit the outcome of its review and its recommendation to the Assembly no later than two weeks prior to the December plenary session, at which the President of the Assembly of States Parties shall update the Assembly on the status of arrears, waiver applications, any technical advice requested and any other factors raised by a State Party as relevant to the consideration of a request for waiver;
7. *Decides* that, in evaluating a request submitted by a State Party in arrears for a waiver of the loss of voting rights under article 112, paragraph 8, of the Statute and in accordance with regulations 5.5 and 5.6 of the Financial Regulations and Rules of the Court, the decision-making process should be guided by the following sample of criteria among others: demonstrated inability to pay; submission of supporting documentation; history of engagement with the Court; history and comparative arrears status; feasibility of an eventual payment plan; timeliness and completeness of submission; the need to foster broad participation in the decision making; the interest in promoting universality of the Rome Statute; and the general objective of strengthening the Court.

## ANNEX I

### Waiver applications – Illustrative Timeline

The table below chronologically lists all relevant actions with implications to the question of arrears through the yearly Court’s budget cycle.

| Date                 | Actor                               | Action                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
|----------------------|-------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| By 15 January        | Registry Contributions Unit         | ➤ Compiles overview of all current States Parties in arrears <sup>1</sup> and informs the Secretariat of the Assembly.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| By 31 January        | Secretariat of Assembly             | ➤ First outreach to State Party in arrears via Note Verbale.<br><i>( Second NV will be sent out in June)</i><br><br>➤ The communication should include the following three key messages:<br>i) Note that, as per the current status, the State Party concerned has lost their voting rights in the Assembly or the Bureau.<br>ii) Inform that several options are available to recover the voting rights: (i) partial/full payment of arrears, (ii) developing/finalising a multiyear payment plan with the Registry, or (iii) submission of a waiver application by 1 <sup>st</sup> July.<br>iii) Underscore that assistance from the Court is available and include contact information on focal point at the Secretariat of the Assembly. |
| February onwards     | Secretariat of the Assembly         | ➤ Include updated information on State Party in arrears in monthly financial reports.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| February onwards     | Bureau,<br>States Parties,<br>Court | ➤ Engage in dialogue with State Party in arrears with a view to recalling the importance of endowing the Court with necessary financial resources, through contribution of every State Party, and to encouraging them to take timely actions also to recover voting rights.                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| June                 | Secretariat of the Assembly         | ➤ Second outreach to State Party in arrears via Note Verbale.<br><i>( to follow the first outreach in January)</i>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| 1 July               | State Party in arrears              | ➤ Submit waiver request, with supporting documents, to the Secretariat of the Assembly.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
|                      |                                     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| Shortly after 1 July | Secretariat of the Assembly         | ➤ The Bureau conducts preliminary assessment of waiver applications.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |

<sup>1</sup> “State Party in arrears” in this document means “State Party that falls under Art 112, para. 8. of the Rome Statute”, i.e. the amount of its arrears equals or exceeds the amount of the contributions due from it for the preceding two full years.

|                                                 |                                 |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
|-------------------------------------------------|---------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| No later than 1 August                          | Bureau                          | ➤ The Bureau may, if deemed necessary, seek technical advice from the Committee on Budget and Finance to review financial and budgetary information provided by States Parties on waiver requests. This request shall be submitted to the Committee on Budget and Finance by the Bureau, through specific questions and inquiries to be answered by the Committee on Budget and Finance, no later than one month prior to the September session of the Committee on Budget and Finance |
| September                                       | Committee on Budget and Finance | ➤ The Committee on Budget and Finance's observation will be submitted to the Bureau via the Secretariat of the Assembly, as early as possible, and no later than three weeks prior to the Assembly session.                                                                                                                                                                                                                                                                            |
| As soon as available, at the latest in November | Bureau                          | <ul style="list-style-type: none"> <li>➤ Bureau considers the waiver applications, including those with the Committee on Budget and Finance's technical advice if deemed necessary.</li> <li>➤ Bureau makes recommendations to the Assembly.</li> </ul>                                                                                                                                                                                                                                |
| Any time before the Assembly                    | State Party in arrears          | ➤ State Party in arrears may still recover their voting rights, either through payment of the minimum amount required to regain voting rights.                                                                                                                                                                                                                                                                                                                                         |
| During the Assembly session                     | Assembly                        | <ul style="list-style-type: none"> <li>➤ At the beginning of the Assembly, prior to any other scheduled Assembly voting/decisions, the President of the Assembly presents the status of arrears/waiver requests, accompanied by the Bureau recommendation.</li> <li>➤ ASP decides on waiver requests, also prior to any other scheduled Assembly voting/decisions.</li> <li>➤ Adopts budget resolution.</li> </ul>                                                                     |
| December/January                                | Registry Contributions Unit     | ➤ Sends out letter to each State Party to inform about the amount due for the following year.                                                                                                                                                                                                                                                                                                                                                                                          |